



# Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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**MINUTES OF PUBLIC HEARING  
JUNE 7, 1993 ROOM 2, SPALDING SCHOOL  
ON APPLICATION OF BRIAN HEBB FOR  
AMENDMENTS TO SPECIAL PERMITS FOR ICE POND ROAD:  
CONSERVATION CLUSTER AND COMMON DRIVEWAY**

The hearing was opened by Chair Ernstoff at 8:15. Present were members Chaput, Hughes, Colman, Yanofsky and Duscha. Also present were Brian Hebb, owner of the Ice Pond Subdivision; Paul Alphen, his attorney; engineer Kevin Conover, of David Ross, Associates; Steve Tobin, former Board member and Trails Committee member; and abutters Ken Bilodeau of 139 Rutland St., Cheryl Finn of 525 East St., and James Davis of 469 East St.

An ANR Plan, entitled "Land in Carlisle, Mass. surveyed for Brian E. Hebb Builders, Inc." dated April 1993 by David Ross Assoc., Inc, was submitted on April 26, 1993. An application for a Special Permit hearing was submitted on May 7, 1993. Hearing notice was posted with the Town Clerk on May 13, 1993, was advertised in the Mosquito on May 21 and May 28, 1993, and notice was sent to all parties in interest, as certified by the Assessors' office, on May 20, 1993.

Mr. Alphen told the Board the hearing was requested so that an ANR regarding the Conservation Cluster and the Common Driveway could be considered; in the application he had asked the Board to extend the statutory 21 day action period on ANR's so that the Board could treat the ANR as an amendment to the existing special permits. He also requested that the Board consider including language in its Special Permit Regulations which would allow ANR's on existing special permits without the necessity of the public hearing process. The Board referred him to Town Counsel Elizabeth Lane's letter of Oct. 4, 1989, regarding the amendment of special permits, which states that no amendment to a special permit, except one for a clerical error, may be made without a hearing.

Kevin Conover explained that the ANR proposes to amend the Special Permit for Conservation Cluster, originally granted on Oct. 25, 1989, and shown on a plan entitled "Plan of Land in Carlisle, Mass., Owned by: Charles Boiteau, 282 Mill Rd., Chelmsford, Ma." dated Feb. 23, 1989, Rev. July 10, 1989, Aug. 11, 1989, Sept. 11, 1989, and Oct. 18, 1989, by Westcott Site Services, by changing lot lines on lots 3, 4, 5, and 6 to allow location of septic systems, and to show septic system fill easements on lots 4 and 5. These new lots will be called 3A, 4A, 5A and 6A; and they will each meet the requirements of the original permit. The open space will remain exactly the same. Conover explained that the ANR proposes to amend the Special Permit for Common Driveway, originally granted on Oct. 25, 1989, and shown on a plan entitled "Carlisle, Ma, Common Driveway and

Special Permit Plan Within 'Ice Pond Subdivision', Owner: Charles Boiteau, 282 Mill Road, Chelmsford, MA," and dated 9-11-89 by Westcott Site Services, by placing dimensions on the driveway which was originally permitted in pictorial form, making the lots unsaleable. In addition, the easement at the end of the drive is shown as a dimensioned triangle, and called a common driveway and utility easement, to allow the design of the turnaround to evolve as the drive develops. The easement is a 30' wide one, and the drive will be created within that perimeter. The driveway easement on lot 5A is also designated a fill easement for lot 6A; these two areas abut each other at the end of the drive. The Board reviewed the comments of Peter Parent of Landtech, Board engineering consultants. The Board asked that the Woods Path Easement, referenced on the ANR, be added to the ANR in graphic dimensioned form. Tobin suggested it be red-lined in tonight and added to the mylar before signing. Alphen, responding to Parent's concern about the legality of an easement within an easement, said that this is not a legal issue; it is done frequently. He explained that a fill easement prevents the lot owner from digging up or removing the fill or soil in that area; the area is a breakout area for the septic field of the easement owner. The Board asked if the easement might be a problem for the common driveway on which it lies if a septic system fails. Alphen replied that septic systems cannot be placed on a different lot from the house they serve. If a system fails, the common drive owners and users may be temporarily inconvenienced because soil may need to be added to the fill easement in repairing the system. Hughes asked where the utilities are. Conover replied that the utilities will lie to one side of the 30' wide easement; the drive will use only 12-18' of that width.

Alphen mentioned that some towns record a cluster special permit on a subdivision plan so that changes as minor as these may be made as an ANR or red-line to a subdivision plan, eliminating the lengthy special permit process.

Hughes moved and Chaput seconded that the ANR be amended to show the Woods Path Easement; Colman moved, and Hughes seconded, that the Common Driveway special permit be amended to show the driveway easement exactly as delineated by the ANR. Discussion regarding the fill easement at the end of the drive easement centered on the fact that the Board of Health had approved the septic plan for lot 6A, and that the Board feels the fill easement would have little impact on the driveway.

Chaput asked that the Decision include the statement that the Open Space remains unchanged, and that the Woods Path Easement will be on the plan. Chaput also asked the applicant and his representatives how we might have avoided this convoluted process; she asked how lot lines could have been more meaningful on the original plan. Conover explained that perk tests can be conducted only at high ground water times of year, and yet a developer may want and need to get his lots delineated and his subdivision permit completed at another time of year, thus necessitating changes later. Hebb commented that he may still lose a lot because the process for this subdivision has gone on so long.

There being no further comment from the Board or the public, Colman amended his motion, and Hughes seconded the amendment, that both special permits be amended as shown on the ANR. Specifically, that on the Conservation Cluster Plan, lines of lots 3, 4, 5 and 6, now renamed lots 3A, 4A, 5A and 6A, be amended as shown, and that fill easements be added as shown. On the Common Driveway Plan, the common drive will be dimensioned and amended as shown; and all prior conditions remain in effect. Chaput,

Duscha, Yanofsky, Colman, Ernstoff, and Hughes voted in favor. Five Board members will sign the amended ANR plan ( five needed because this is a special permit amendment as well as an ANR) at the meeting of June 21, 1993. On a motion by Colman, seconded by Hughes, with all voting in favor, the hearing was closed at 9:07.

Sandy Bayne, Planner Assistant